

# **EXHIBIT 3**

Declaration of Scott Creekmur with Exhibits A-B

## DECLARATION OF SCOTT CREEKMUR

I, Scott Creekmur, hereby declare as follows:

1. I have been engaged by Defendants to provide assistance and advice in the matter of Bidi Vapor, LLC v. Vaperz LLC, et al., 1:21-cv-01430, which is pending in the United States District Court for the Northern District of Illinois.
2. I am over the age of 18. The following facts are within my personal knowledge.
3. I am being compensated at an hourly rate of \$250. My compensation is not contingent on my assistance/advice or the result in the litigation.
4. My resume is attached as **Exhibit A**. As shown, I am Chemist at Legend Technical Services, Inc.
5. I conducted testing necessary to determine the nicotine concentration of a number of products competitive with MNGO Stick including the Bidi Stick. Legend Technical Services, Inc. was ordered to perform testing and prepare a report by Defendants' representative, Peter White. Legend Technical Services received the products that were tested directly from Peter White. The products were in their original packaging and showed no signs of tampering. I tested the products in accordance with ISO 17025:2017. My report was reviewed and signed by my supervisor Tom Barrett. A copy of that report is attached as **Exhibit B**.
6. My test results showed the tested Bidi Sticks exhibited an average nicotine concentration of 5.47% by volume, assuming specific gravity of the e-liquid of 1.12 g/mL and a specific gravity of nicotine of 1.02 mg/mL.
7. As a chemist, I understand that nicotine degrades over time.
8. In my role at Legend Technical Services, I have tested various e-cigarette products for nicotine degradation in a controlled, laboratory environment. In such tests, variables were

controlled in an attempt to study the effect of nicotine degradation based on age of the product. From my experiences, nicotine can degrade by up to 10% in six months solely based on the age of the product and not accounting for other factors such as exposure to environmental conditions like heat, light, water, humidity, shipping, handling, etc. In other words, solely based on age, a product exhibiting a 5.4% nicotine concentration could degrade down to 4.86% in six months even in ideal conditions. If other factors are present, such as exposure to heat, light, water, humidity, etc., I would expect the degradation to be accelerated.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 15th day of April 2021 at St. Paul, Minnesota.



Digitally signed by Scott Creekmur  
DN: cn=Scott Creekmur, o=Legend,  
ou, email=screekmur@legend-  
group.com, c=US  
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Scott Creekmur

# EXHIBIT A

# RESUME

Scott Creekmur

## EDUCATION

Materials Science and Engineering Classes  
University of Minnesota, Minneapolis, MN, 2006 to 2008

Bachelor of Science in Chemistry, Materials Science and Engineering Minor  
North Carolina State University, Raleigh, NC, 2003

## SEMINAR/SHORT COURSES

- Waters Extractable/Leachable Medical Device Analysis Training, 2016
- Presented Analysis of Cannabis Products, MCF, 2016
- Waters Acquity ToF Operation Training, 2014
- Waters Acquity TQD Operation Training, 2011
- Dionex ICS-2100 Basic Operation and Troubleshooting, 2010
- Dionex Basic and Intermediate Chromeleon 6 Training, 2010
- Introduction to Metrohm Autotitrator, 2009
- Materials Design and Performance, 2008
- HPLC Troubleshooting and Diagnostics, MCF, 2007
- Introduction to Thermodynamics of Materials, 2006
- Introduction to HPLC, MCF, 2006
- Beginning Gas Chromatography, RESTEK, 2004

## PROFESSIONAL WORK EXPERIENCE

LEGEND TECHNICAL SERVICES, INC., St. Paul, MN. August, 2003 to Present.

**Client Manager I** - Responsibilities include monitoring client projects and prepare proposals; generating laboratory reports and client invoicing; addressing client requirements and concerns, including turnaround times, methods, and reporting formats; communicating with clients, in a timely manner, on any issue that may arise; preparing sub-contracts and purchase orders for work required to be sub-contracted.

**Chemist IV (2019 to Present)**—Responsibilities include developing new methods per client's request or for up and coming compounds of interest utilizing available instrumentation. These include, but are not limited to, assay of nicotine in bulk and product samples, analysis of nicotine degradants by LC/MS/MS and determination of freebase to protonated nicotine ratio in e-liquids. Serve as a technical expert in his specific field of expertise. Analyze samples by UPLC-ToF and perform spectral deconvolution if necessary per medical device extractable/leachable protocols. Assist junior chemists in any analysis or instrument troubleshooting.

**Chemist III (2015 to 2019)**—Responsibilities include developing new methods per client's request utilizing available instrumentation. Analyze samples by UPLC-ToF and perform spectral deconvolution if necessary per medical device extractable/leachable protocols. Test cannabis based samples for potential contaminants and determine potency profile. Assist junior chemists in any analysis or instrument troubleshooting.

**Chemist II (2007 to 2015)** -- Responsibilities include preparing a variety of samples for various analyses; performing chemical analyses - utilizing various chemical and wet techniques in conjunction with FTIR, DSC, TGA, DMA, HPLC, UPLC-MS/MS, SEC, IC and, UV-Vis spectrometry; supporting various industries, including biomedical device manufacturers, polymer processors, and electronics, in relation to failure analysis, product development, and manufacturing support.

**Chemist I (2003 to 2007)** – Responsibilities included serving as primary analyst for DRO, and backup analyst for PCBs and Pesticides; reviewing data; maintaining/troubleshooting GCs and gas generators; performing methods, data recording, and data validation using prescribed methods; organizing incoming projects to meet holding times and client schedules; serving as backup extraction analyst for soil and water samples. Additionally, preparing samples for metals analysis; performing mercury analysis; conducting wet chemistry analysis, including TSS, TOC, TDS, and pH; performing analysis on the Flame and Graphite AA instruments, and

on the ICP instrument; operating mobile laboratory equipment. Finally, ashing samples, prepping HPLC samples, project management for those analyses; oil & grease analysis - gravimetric, clean-up methods by Soxhlet extraction; oil mist and silica analysis by IR, DSC, TGA; prepping anions/cations and analyzing by HPLC; analyzing 8330 water/soil and 8310 waters by HPLC; extraction particle counts; bombing prep; epoxide determination, and prepping a variety of samples for various analyses.

# EXHIBIT B

# LEGEND

Technical Services, Inc.

88 Empire Drive • St. Paul, Minnesota • 55103  
(651) 642-1150 • fax (651) 642-1239

April 09, 2021

Vaperz

Subject: Test Report: Nicotine Analysis  
Legend No: 2101588 Ver. 01

## 1.0 INTRODUCTION

LEGEND TECHNICAL SERVICES, INC. (LEGEND) received twelve samples from a representative of Vaperz on April 07, 2021. The scope of services was limited to analyzing the samples for total nicotine.

## 2.0 COMPLIANCE STATEMENT

The general conduct of this study incorporated quality practices which were in accordance with ISO 17025:2017.

## 3.0 SAMPLE IDENTIFICATION

LEGEND No.	Client Identification
2101588-01	Bidi Stick, Arctic Mint/Menthol, 6% (w/v), Lot: BS6-MF-012
2101588-02	Bidi Stick, Winter, Watermelon/Menthol, 6% (w/v), Lot: BS6-LI-012
2101588-03	Bidi Stick, Summer, Blueberry/Pomegranate, 6% (w/v), Lot: BS6-KS-012
2101588-04	Bidi Stick, Solar, Strawberry/Blueberry, 6% (w/v), Lot: BS6-BB-012
2101588-05	POSH, Pink Lemonade, 6% Nic
2101588-06	POSH, Mango Frost, 6% Nic
2101588-07	Stig, VGOD, Lush ICE, 6% (w/v)
2101588-08	Stig, VGOD, Mango Bomb ICED, 6% (w/v)
2101588-09	POP, Blue Raz, 5% Nicotine
2101588-10	Breeze Smoke, Blueberry Mint, Plus Edition, 5% Nicotine
2101588-11	Posh Plush, Ripe Mango Limited Edition, 4.5% w/w Nicotine
2101588-12	Posh Plush, Banana Smoothie, 6% Nic (w/w)

## 4.0 METHODOLOGY

### Total Nicotine

The samples were analyzed for total nicotine per LEGEND SOP LABIND-099.3. The analysis was performed in duplicate with the results reported in milligrams per gram (mg/g).

## 5.0 RESULTS

The results are reported in Table #1.

## 6.0 REVISION HISTORY

Version 00. Initial release.

Version 01. Removal of address from report.

## 7.0 REMARKS

This report shall not be reproduced except in full, without the written authorization of LEGEND TECHNICAL SERVICES, INC.

The results in this report apply only to the samples received and analyzed as described in Section 3.0 "Sample Identification".

Submitted by,

LEGEND TECHNICAL SERVICES, INC.



Tom Barrett  
Vice President  
Strategic Analytical Services

Digitally signed by Tom Barrett  
DN: cn=Tom Barrett, o=Legend Technical  
Services, ou=email=tbarr@legend-  
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Date: 2021.04.09 17:08:11 -05'00'



**LEGEND Technical Services, Inc.**

LEGEND #2101588

Table #1

**Vaperz**

Client Identification (LEGEND No.)	Nicotine (mg/g)
Bidi Stick, Arctic Mint/Menthol, 6% (w/v), Lot: BS6-MF-012 (2101588-01)	51.7
Bidi Stick, Arctic Mint/Menthol, 6% (w/v), Lot: BS6-MF-012 (2101588-01 DUP)	52.0
Bidi Stick, Winter, Watermelon/Menthol, 6% (w/v), Lot: BS6-LI-012 (2101588-02)	49.9
Bidi Stick, Winter, Watermelon/Menthol, 6% (w/v), Lot: BS6-LI-012 (2101588-02 DUP)	49.1
Bidi Stick, Summer, Blueberry/Pomegranate, 6% (w/v), Lot: BS6-KS-012 (2101588-03)	48.9
Bidi Stick, Summer, Blueberry/Pomegranate, 6% (w/v), Lot: BS6-KS-012 (2101588-03 DUP)	48.4
Bidi Stick, Solar, Strawberry/Blueberry, 6% (w/v), Lot: BS6-BB-012 (2101588-04)	49.6
Bidi Stick, Solar, Strawberry/Blueberry, 6% (w/v), Lot: BS6-BB-012 (2101588-04 DUP)	49.2
POSH, Pink Lemonade, 6% Nic (2101588-05)	27.9
POSH, Pink Lemonade, 6% Nic (2101588-05 DUP)	25.6
POSH, Mango Frost, 6% Nic (2101588-06)	27.3
POSH, Mango Frost, 6% Nic (2101588-06 DUP)	28.3
Stig, VGOD, Lush ICE, 6% (w/v) (2101588-07)	53.7
Stig, VGOD, Lush ICE, 6% (w/v) (2101588-07 DUP)	52.7
Stig, VGOD, Mango Bomb ICED, 6% (w/v) (2101588-08)	53.6
Stig, VGOD, Mango Bomb ICED, 6% (w/v) (2101588-08 DUP)	52.3
POP, Blue Raz, 5% Nicotine (2101588-09)	37.8
POP, Blue Raz, 5% Nicotine (2101588-09 DUP)	37.8
Breeze Smoke, Blueberry Mint, Plus Edition, 5% Nicotine (2101588-10)	50.9
Breeze Smoke, Blueberry Mint, Plus Edition, 5% Nicotine (2101588-10 DUP)	50.8
Posh Plush, Ripe Mango Limited Edition, 4.5% w/w Nicotine (2101588-11)	39.3
Posh Plush, Ripe Mango Limited Edition, 4.5% w/w Nicotine (2101588-11 DUP)	40.0
Posh Plush, Banana Smoothie, 6% Nic (w/w) (2101588-12)	36.8
Posh Plush, Banana Smoothie, 6% Nic (w/w) (2101588-12 DUP)	36.5
Date Analyzed	04/08/21